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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSWALD WILSON,

Plaintiff,

- against -

AMERICAN BROADCASTING CO., INC., ABC
CO, INC., DISNEY ENTERPRISES, INC., THE
WALT DISNEY COMPANY, MICHAEL
ZDYRKO, CHARLES ZANLUNghi, WILLIAM
TRACY, BRENDAN BURKE, ROBERT SCHLES
AND SANDY RAMJATTAN

Defendants.

1:08-cv-01333-LAP

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, dated May 7, 2008, and all other pleadings, papers, and proceedings had herein, Defendants American Broadcasting Companies, Inc., Michael Zdyrko, Charles Zanolunghi, William Tracy, Brendan Burke, Robert Schles, and Sandy Ramjattan (collectively, "Defendants") will move the Court, located at the United States Courthouse, Courtroom 12A, 500 Pearl Street, New York, New York 10007, at such time as the Court may direct, for an Order pursuant to Federal Rule of Civil Procedure 12(b)(6) dismissing portions of the Complaint filed herein for failure to state a

claim upon which relief can be granted and for such other and further relief that the Court deems just and proper.

In particular, Defendants will and hereby do move as follows:

1. The First Cause of Action in the Complaint should be dismissed against all individual defendants because individuals cannot be held liable under 42 U.S.C. § 2000e, *et seq.* and because Plaintiff failed to name the individual defendants in his administrative charge with the U.S. Equal Employment Opportunity Commission.

2. The Third Cause of Action should be dismissed in its entirety because (1) Plaintiff can identify no deprivation of rights upon which to base a claim under 42 U.S.C. § 1985; (2) Plaintiff fails to allege the required conspiracy; and (3) the intra-corporate immunity doctrine makes a conspiracy legally impossible in this case.

3. The Fourth Cause of Action for violation of the Family and Medical Leave Act should be dismissed with respect to all individual defendants because the allegations in the Complaint are insufficient to establish that any of them qualify as “employers” under the statute, or that any of them took any action which violated the statute.

4. The Tenth Cause of Action for negligent infliction of emotional distress should be dismissed in its entirety because it is preempted by the New York Workers’ Compensation Law.

5. Defendants Burke, Ramjattan, and Tracy should be dismissed entirely from this action because the allegations in Plaintiff's Complaint are insufficient to state a claim against them under any theory of liability.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Rule 6.1, answering papers, if any, are required to be served upon the undersigned on or before May 27, 2008.

Dated: New York, New York
May 7, 2008

PAUL, HASTINGS, JANOFSKY & WALKER LLP

/s/ Stephen P. Sonnenberg
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